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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,

vs.

APPLE INC.,

Defendant, Counterclaimant.

No. 4:20-CV-05640-YGR-TSH

**STIPULATION AND [PROPOSED]
ORDER REGARDING MATERIALS
RELIED UPON BY EXPERTS**

Hon. Yvonne Gonzalez Rogers

Pursuant to the Court's correspondence of May 8, 2021, directing that "[w]here the parties agree on the admissibility of documents associated with each expert's testimony, please prepare a written list of those documents for the court and the clerk of the court which will allow for the efficient admission of the same," IT IS HEREBY STIPULATED, subject to the approval of the Court:

The exhibits listed in the table below are admitted into evidence in connection with the opinion(s) offered by the expert(s) identified, subject to: (a) the Court's standing orders on hearsay and other evidentiary matters; (b) appropriate confidentiality designations, as proposed by the parties on a per-exhibit basis; (c) the understanding that Rule 1006 summaries admitted in connection with expert opinions provide a basis for those opinions and the parties will not object to Rule 1006 summaries on the basis that the underlying materials have not been admitted into evidence separately; and (d) the understanding that Drs. Hanssens, Hitt, Rubin, Rossi, Mathiowetz, Mickens, Lee, and Evans, and Mr. Malackowski may rely on information not admitted into the record, consistent with Rule 703, and that the parties will not object to those experts' reliance on such unadmitted materials within the scope of Rule 703 except as otherwise expressly set forth herein.

Epic reserves the right to object pursuant to Rule 703 to testimony by Mr. Malackowski in reliance on the following sources: DX-3049, DX-3164, DX-3190, DX-3305, DX-3545, DX-3925, DX-3946, DX-3959, DX-4014, DX-4385, DX-4492, DX-4516, DX-4597, DX-4605, PX-2553 and PX-2882.

Further, the parties submit an errata regarding the sealing status of two exhibits from the parties' previous stipulation, Dkt. 635, and rescind certain requests for admission of evidence.

Expert	Exhibit	Subject to sealing order or motion
Hanssens	PX-2302	Apple intends to request sealing
Hanssens	DX-4662	
Hanssens	DX-4663	
Hanssens	DX-4665	
Hanssens	DX-4669	
Hanssens	DX-4671	
Hanssens	DX-4672	
Hanssens	DX-4674	
Hanssens	DX-4679	
Hanssens	DX-4680	
Hanssens	DX-4713	
Hanssens	DX-4714	

1	Hanssens	DX-4715	
2	Hanssens	DX-4716	
3	Hanssens	DX-4753	
4	Hanssens	DX-4754	
5	Hanssens	DX-4755	
6	Hanssens	DX-4756	
7	Hanssens	DX-4866	
8	Hanssens	DX-4868	
9	Hanssens	DX-4871	
10	Hanssens	DX-4872	
11	Hanssens	DX-4875	
12	Hanssens	DX-5556	
13	Hanssens	DX-5557	
14	Hanssens	DX-5558	
15	Hanssens	DX-5559	
16	Hanssens	DX-5560	
17	Hitt	DX-4131	
18	Hitt	DX-4133	Epic intends to request sealing
19	Hitt	DX-4447	
20	Malackowski	DX-3052	
21	Malackowski	DX-3055	
22	Malackowski	DX-3072	
23	Malackowski	DX-3077	
24	Malackowski	DX-3131	
25	Malackowski	DX-3133	
26	Malackowski	DX-3134	
27	Malackowski	DX-3138	
28	Malackowski	DX-3140	
29	Malackowski	DX-3150	
30	Malackowski	DX-3152	
31	Malackowski	DX-3161	
32	Malackowski	DX-3177	
33	Malackowski	DX-3179	
34	Malackowski	DX-3197	
35	Malackowski	DX-3198	
36	Malackowski	DX-3229	
37	Malackowski	DX-3241	
38	Malackowski	DX-3242	
39	Malackowski	DX-3243	
40	Malackowski	DX-3255	
41	Malackowski	DX-3269	
42	Malackowski	DX-3287	

1	Malackowski	DX-3317	
2	Malackowski	DX-3324	
3	Malackowski	DX-3343	
4	Malackowski	DX-3409	
5	Malackowski	DX-3412	
6	Malackowski	DX-3425	
7	Malackowski	DX-3442	
8	Malackowski	DX-3453	
9	Malackowski	DX-3468	
10	Malackowski	DX-3473	
11	Malackowski	DX-3491	
12	Malackowski	DX-3494	
13	Malackowski	DX-3535	
14	Malackowski	DX-3550	
15	Malackowski	DX-3552	
16	Malackowski	DX-3606	
17	Malackowski	DX-3616	
18	Malackowski	DX-3632	
19	Malackowski	DX-3639	
20	Malackowski	DX-3650	
21	Malackowski	DX-3659	
22	Malackowski	DX-3664	
23	Malackowski	DX-3676	
24	Malackowski	DX-3684	
25	Malackowski	DX-3691	
26	Malackowski	DX-3696	
27	Malackowski	DX-3706	
28	Malackowski	DX-3709	
	Malackowski	DX-3765	
	Malackowski	DX-3778	
	Malackowski	DX-3808	
	Malackowski	DX-3811	
	Malackowski	DX-3823	
	Malackowski	DX-3836	
	Malackowski	DX-3851	
	Malackowski	DX-3852	
	Malackowski	DX-3917	
	Malackowski	DX-3938	
	Malackowski	DX-3943	
	Malackowski	DX-3950	
	Malackowski	DX-3961	
	Malackowski	DX-3986	

1	Malackowski	DX-3989	
2	Malackowski	DX-4013	
3	Malackowski	DX-4015	
4	Malackowski	DX-4028	
5	Malackowski	DX-4063	
6	Malackowski	DX-4069	
7	Malackowski	DX-4088	
8	Malackowski	DX-4114	
9	Malackowski	DX-4115	
10	Malackowski	DX-4116	
11	Malackowski	DX-4120	
12	Malackowski	DX-4121	
13	Malackowski	DX-4128	
14	Malackowski	DX-4154	
15	Malackowski	DX-4174	
16	Malackowski	DX-4231	
17	Malackowski	DX-4278	
18	Malackowski	DX-4282	
19	Malackowski	DX-4285	
20	Malackowski	DX-4301	
21	Malackowski	DX-4329	
22	Malackowski	DX-4344	
23	Malackowski	DX-4348	
24	Malackowski	DX-4371	
25	Malackowski	DX-4384	
26	Malackowski	DX-4403	
27	Malackowski	DX-4407	
28	Malackowski	DX-4411	
	Malackowski	DX-4424	
	Malackowski	DX-4433	
	Malackowski	DX-4449	
	Malackowski	DX-4468	
	Malackowski	DX-4469	
	Malackowski	DX-4488	
	Malackowski	DX-4489	
	Malackowski	DX-4497	
	Malackowski	DX-4499	
	Malackowski	DX-4521	
	Malackowski	DX-4530	
	Malackowski	DX-4564	
	Malackowski	DX-4569	
	Malackowski	DX-4581	

1	Malackowski	DX-4586	
2	Malackowski	DX-4595	
3	Malackowski	DX-4610	
4	Malackowski	DX-4619	
5	Malackowski	DX-4627	
6	Malackowski	DX-4650	
7	Malackowski	DX-5471	
8	Malackowski	DX-5472	
9	Malackowski	DX-5473	
10	Malackowski	DX-5474	
11	Malackowski	DX-5475	
12	Malackowski	DX-5476	
13	Malackowski	DX-5477	
14	Malackowski	DX-5478	
15	Malackowski	DX-5479	
16	Malackowski	DX-5480	
17	Malackowski	DX-5481	
18	Malackowski	DX-5482	
19	Malackowski	DX-5483	
20	Malackowski	DX-5484	
21	Malackowski	DX-5485	
22	Malackowski	DX-5486	
23	Malackowski	DX-5487	
24	Malackowski	DX-5488	
25	Malackowski	PX-2756	
26	Rubin	DX-3124	
27	Rubin	DX-3216	
28	Rubin	DX-3230	
29	Rubin	DX-3308	
30	Rubin	DX-3328	
31	Rubin	DX-3332	
32	Rubin	DX-3414	
33	Rubin	DX-3559	
34	Rubin	DX-3592	
35	Rubin	DX-3679	
36	Rubin	DX-3846	
37	Rubin	DX-3913	Partially sealed (Dkt. 547)
38	Rubin	DX-3968	
39	Rubin	DX-4066	
40	Rubin	DX-4162	
41	Rubin	DX-4234	
42	Rubin	DX-4356	

1	Rubin	DX-4401	
2	Rubin	DX-4451	
3	Rubin	DX-4555	
4	Rubin	DX-4616	
5	Rubin	DX-4637	
6	Rubin	DX-4909	Partially sealed (Dkt. 547)
7	Rubin	DX-4934	
8	Rubin	DX-4956	
9	Rubin	DX-4959	
10	Rubin	DX-4962	
11	Rubin	DX-4966	
12	Rubin	DX-4969	
13	Rubin	DX-4975	
14	Rubin	DX-4976	
15	Rubin	DX-4982	
16	Rossi	PX-1085	Apple intends to request sealing
17	Rossi	PX-1086	
18	Rossi	PX-1087	
19	Rossi	PX-1088	
20	Rossi	PX-1089	
21	Rossi	PX-1090	
22	Rossi	PX-1091	
23	Rossi	PX-1092	
24	Rossi	PX-1918	
25	Rossi	PX-1919	
26	Rossi	PX-1920	
27	Rossi	PX-2367	Apple intends to request sealing
28	Rossi	PX-2545	
29	Rossi	PX-2547	
30	Mathiowetz	PX-1164	
31	Mathiowetz	PX-1165	
32	Mathiowetz	PX-2309	Apple intends to request sealing
33	Mathiowetz	PX-2378	Apple intends to request sealing
34	Mickens	PX-2519	
35	Mickens	PX-2529	
36	Mickens	PX-2531	
37	Lee	PX-0009	
38	Lee	PX-0101	Apple intends to request sealing
39	Lee	PX-0741	
40	Lee	PX-2090	Apple intends to request sealing
41	Lee	PX-2118	
42	Lee	PX-2174	Apple intends to request sealing

1	Lee	PX-2337	Apple intends to request sealing
2	Lee	PX-2350	Apple intends to request sealing
3	Lee	PX-2500	
4	Lee	PX-2508	
5	Lee	PX-2534	
6	Lee	PX-2535	
7	Lee	PX-2826	
8	Lee	DX-5492	
9	Evans	PX-2302	Apple intends to request sealing
10	Evans	PX-2367	Apple intends to request sealing

8 In addition, the parties amend their prior stipulation with respect to the following exhibits.

9 1. DX-4200 is included in the parties' stipulation and proposed order at Dkt. No. 635, and
10 identified as partially sealed by Dkt. No. 526. In fact, the exhibit is subject to a motion to seal
11 appearing at Dkt. No. 526. The Court deferred its decision on that exhibit, *see* Dkt. No. 547.

12 2. DX-3734 was listed for admission in the parties' stipulation at Dkt. No. 635 and
13 identified as partially sealed by Dkt. No. 564. In fact, DX-3734 was not addressed by Dkt. No.
14 564. Apple intends to move to seal DX-3734.

15 3. DX-5338 was included in the parties' stipulation and proposed order at Dkt. Nos. 640
16 and 641. The parties have agreed to amend their requests for admission of evidence to remove
17 DX-5338, and now request that DX-5338 not be admitted into evidence and be withdrawn from
18 the trial record without prejudice.

19 4. Finally, DX-3176, DX-3177, DX-3305, DX-3419, DX-3483, DX-3679, DX-4316 and
20 DX-4623 were included in the parties' stipulation and proposed order at Dkt. Nos. 640 and 641.
21 The parties hereby agree to rescind those requests for admission of evidence and to withdraw these
22 exhibits from the trial record without prejudice.

23 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

1
2 Dated: May 16, 2021

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1 **PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO ORDERED.**

2
3 DATED: _____

HON. YVONNE GONZALEZ ROGERS
United States District Court Judge

ECF SIGNATURE ATTESTATION

In accordance with Civil Local Rule 5-1, the filer of this document hereby attests that the concurrence of the filing of this document has been obtained from the other signatory hereto.

Dated: May 16, 2021

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